

Minutes of the Meeting of the
Arizona Game and Fish Commission
Friday, January 16, 2004 – 8:00 a.m.
Arizona State Fairgrounds-Wildlife Building
1826 W. McDowell Rd., Phoenix, Arizona

PRESENT: (Commission)

(Director's Staff)

Chairman Joe Carter
Commissioner Sue Chilton
Commissioner W. Hays Gilstrap
Commissioner Joe Melton
Commissioner Michael M. Golightly

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Asst. A.G. Jim Odenkirk

Chairman Carter called the meeting to order at 8:04 a.m.

1. Executive Session

- a. Purchase, Sale or Lease of Real Property
- b. Legal Counsel. *State of Arizona v. Norton*, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301. F.3d 985 (9th Cir. 2002); *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313; *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; in the matter of *Search Warrant No. CR 2002-2395SW*; *The Fund for Animals et al. v. Norton et al.*; USDC D.C. 1:30-CV-00892 (RJL); and *Phelps Dodge v. Arizona Dept. of Water Resources*, LC2003-000243-001DT.
- c. Personnel Matters. Director's goals and objectives

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION GO INTO EXECUTIVE SESSION.

Vote: Unanimous

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Meeting recessed at 8:04 a.m.

Meeting reconvened at 9:10 a.m.

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Chairman Carter called the meeting to order at 9:10 a.m. The commissioners introduced themselves and Chairman Carter introduced the Director's staff. The meeting followed a revision dated January 13, 2004.

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Awards and Commissioning of Officers**Public comment**

Jon Fugate, representing the Yuma Valley Rod and Gun Club (YVRGC), stated the following awards were given by the YVRGC:

Region 4 Award: Russ Engle, the Department Habitat Program Manager, Region 4
Outstanding Department employee: Tony Guiles, Legislative Liaison, Phoenix
Outstanding Commissioner: Joe Carter

Director Shroufe introduced two new members of the Department's staff who were present at today's meeting. They were Gloria Diaz, Total Quality Coordinator, and Jon Cooley, Region I (Pinetop) Supervisor.

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2. Litigation Report

State of Arizona v. Norton, CIV 02-0402-PHX-FJM; *Montoya v. Manning*, 301 F.3d 985 (9th Cir. 2002); *In Re General Stream Adjudication for the Little Colorado River and Gila River*; *Mark Boge v. Arizona Game and Fish Commission & Shroufe*, CIV 2000-020754; *Mary R. LLC, et al. v. Arizona Game and Fish Commission*, CIV 2001-015313; *Ameduri and Yee et al. v. U.S. Forest Service et al.*, U.S. District Court No. CIV 02-2495 PCT FJM; *Bar D Cattle Co. v. Shroufe*, CIV2002-0872; in the matter of *Search Warrant No. CR 2002-2395SW*; *The Fund for Animals et al. v. Norton et al.*; USDC D.C. 1:30-CV-00892 (RJL); and *Phelps Dodge v. Arizona Dept. of Water Resources*, LC2003-000243-001DT, and issues associated with potential litigation over the status of black-tailed prairie dogs and mountain plovers.

A copy of the report, which was provided to the Commission prior to today's meeting, is included as part of these minutes.

Commissioner Melton asked for a quick update on the Alamo Lake case. Mr. Odenkirk stated the Department was working towards a comprehensive agreement with the Bureau of Land Management (BLM) to resolve litigation. The two agencies were close to having an agreement that would accomplish many of the objectives that were attempted to achieve in the litigation.

As to the litigation, the Commission filed an amended complaint last spring and raised some new issues in the case. Based upon those issues, it filed a partial motion for summary judgment, which the court granted. An order was issued to BLM to complete, in response to the Department's administrative protest, amendments to the existing land use plans dealing with Alamo and to issue a Record of Decision on those amendments. The BLM has not complied with that Order and has exceeded the time set by the judge to comply with the Order. The Commission has withheld taking action because of pending settlement negotiations, which should be resolved within the next 30 days.

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2.1. State and Federal Legislation

Presenter: Anthony Guiles, Legislative Liaison

The Legislature reconvened into the second regular session on Monday, January 12. Currently, there are 610 bills that have been introduced. Copies of bills that should be monitored closely were distributed to the Commission; however, the Commission had not taken a formal position on any of the bills at this point. The bills were reviewed.

H 2137 (Game and Fish Commission members) – This would establish a two full-term limit for Commission members. Mr. Guiles thought that this bill would allow opening further analysis on the Commission and its structure. Checks and balances already exist. The consensus of the Commission was to monitor the bill closely in its present form.

Commissioner Golightly asked Mr. Guiles to compile a list of definitions of the terms related to bills. Mr. Guiles noted bills that will be monitored closely may have significant impact on the Department. He stated the following terms were: support; oppose; monitor closely and monitor, as well as oppose in its proper format with changes; with amendments to be made to certain provisions in the bill; and support, if amended. The Commission can suggest amendments to any position on a bill. Mr. Guiles would prepare a list of terms and fax it to the Commission.

H 2158 (Shooting Range Preservation) – This bill is designed for the Ben Avery Shooting Facility. Attention was given to one provision on the last page of the bill, stating the Commission cannot close the facility without a joint resolution of both Houses and signed by the Governor. The Department was amicable with most of the language in the bill. Commissioner Gilstrap stated he would not be comfortable supporting the bill in its present form since it involves separation of powers between the Governor and the Commission. Commissioner Melton agreed. The bill could have unintended consequences. Chairman Carter thought Mr. Guiles could work with the bill's sponsor to modify or remove the language. Commissioner Golightly believed the bill was not legal in its current form because the Governor cannot sign joint resolutions. Mr. Guiles stated it was not specific to this bill itself; the Commission would be against any bill usurping its authority on any Commission property. The rest of the provisions in the bill would be things the Commission would probably support.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION OPPOSE THE BILL IN ITS CURRENT FORM REGARDING THE MENTIONED PROVISION AND DIRECT MR. GUILLES AND/OR COMMISSION MEMBER TO WORK WITH THE SPONSOR OF THIS BILL TO EITHER REMOVE SUBSECTION B AND/OR AMEND IT TO AN ACCEPTABLE FORM.

Commissioner Gilstrap stressed the importance of separation of powers.

Vote: Unanimous

H 2179 (Hunting; transfer of permit) – This would allow a holder of a big game tag to transfer it to a non-profit organization that allows for hunting opportunities for children with a terminal illness. Commission consensus was to support the bill in its present form.

H 2184 (DUI Council and Fund) – This involves reinstatement of DUI Abatement Funds. The Department receives money from this Fund. Commission consensus was to monitor the bill closely.

H 2307 (Fire Districts; Lake Improvement Funds) – The Department receives monies through the SLIF Program. Commission consensus was to monitor closely.

H 2364 (Federal monies; appropriation) – The Department was not exempt under this bill.

Motion: Golightly moved and Gilstrap seconded THAT THE COMMISSION OPPOSE TO ACCEPTABLE AMENDMENTS.

Vote: Unanimous

HCR 2001 (Federal monies; state agency reports) – This would refer to ballot an amendment of the state's constitution to provide the JLBC with a list of all federal monies anticipated or applied for by state agencies. This list would have to be published by January 15 of each year. Commission consensus was to monitor closely until further information was obtained.

SCR 1014 (Lottery monies; reallocation, raffles) – This would redirect lottery dollars from current purposes to education and transportation. This means the Heritage Fund would no longer receive any lottery revenue.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION OPPOSE THE BILL.

Vote: Unanimous

Mr. Guiles recommended the remaining bills remain on the monitor list until further information was obtained. Mr. Guiles would be sending each week, either by fax or email, the status of bills

S 1081 (Animal and ecological terrorism) – This bill would make it illegal for an animal or ecological terrorist organization to conduct or assist in depriving the owner of an animal or natural resource of using his property by obstructing the use, taking the animal, damaging a research facility, etc.

Motion: Melton moved and Golightly seconded THAT THE COMMISSION MONITOR THIS BILL CLOSELY.

Vote: Unanimous

Director Shroufe noted the Commission should designate individuals on the Commission to represent the Commission in an emergency at the Legislature.

Motion: Chilton moved and Melton seconded THAT COMMISSIONER GOLIGHTLY AND COMMISSIONER GILSTRAP TO BE THE COMMISSION'S LIAISONS IN

WORKING WITH THE DEPARTMENT ON EMERGENCY ISSUES NEEDING A QUICK RESPONSE.

Vote: Unanimous

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2.2. Resolution to Compliment the President of the United States on His Healthy Forests Initiative as it Relates to Wildlife Habitat

Presenter: Anthony Guiles, Legislative Liaison

Mr. Guiles reviewed the two versions of the draft resolution.

Motion: Chilton moved and Melton seconded VERSION B OF THE RESOLUTION WITH THE CHANGE THAT THERE BE AN APOSTROPHE AFTER THE WORD STATE.

Mr. Guiles read version B of the resolution.

Public comment

Sandy Bahr, Conservation Outreach Director for the Sierra Club, objected to several provisions in the resolution. It was inappropriate in that the Sierra Club failed to see how the Health Forests Initiative significantly benefits wildlife. The Initiative does not require hazardous fuel reduction projects to be focused entirely in community protection areas. It would allow for more logging in remote backcountry areas under the auspices of hazardous fuel reduction rather than concentrating funds in community protection zones. It does not prohibit new road building in roadless areas. The agencies have the option of not considering the most current science. The Initiative prohibits public participation and does not enhance it. Since it was an election year, the timing for this was not good for the Commission. This should have been done last year with full public participation and debate. The Initiative could affect wildlife, especially old-growth dependent species.

Chairman Carter explained what occurred to result in the resolution. (See page 21 of the Commission meeting minutes for December 4, 2003.)

Commissioner Golightly supported version A of the resolution. He wanted public participation. He was concerned of limited public participation in the NEPA process. He felt version B was getting into politics. Director Shroufe noted the Department would find out more when a congressional appropriation was attached to the bill. The amount would be different district by district, forest by forest.

Commissioner Gilstrap stated the Forest Restoration Act was not perfect legislation. He did not see this as being political; it was a statement of appreciation for doing something with positive steps to help manage wildlife. Commissioner Melton felt wildlife would benefit. Chairman Carter thought this addressed two issues: 1) appreciation for the passage of the legislation and 2) urging Congress to appropriately fund a long overdue need to address some of the conditions within national forests.

Vote: Chilton, Gilstrap and Melton – Aye
Golightly – Nay
Chair voted Aye
Motion passed 4 to 1

Commissioner Golightly noted he would have voted for version A.

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3. An Update on Current Issues, Planning Efforts, and Proposed Projects on State and Federal Lands in Arizona and Other Matters Related Thereto

Presenter: Bob Broschied, Acting Habitat Branch Chief

A copy of the printed update, which was provided to the Commission prior to the meeting, is included as part of these minutes.

Additional information was provided regarding the Tumacacori Highlands Wilderness proposal. Maps showing roads within the area were distributed to the Commission. One generated by the Department showed access roads; the second map showed the Sky Island Alliance's proposal. Chairman Carter reminded the Commission and public that the Commission made a commitment to place this item on the March meeting agenda for continued discussion.

Commissioner Melton was concerned about limited road access, especially into water developments. Commissioner Chilton agreed with Commissioner Melton. She was concerned with access. This was rugged country and access was needed to maintain wildlife. This proposal would divert Department resources to try to preserve access. The sportsmen and people affected by this proposal have been kept out of the process.

Public comment

Jon Fugate, representing the Yuma Valley Rod and Gun Club (YVRGC), stated a bill could not be written well enough concerning wilderness designation to have the Commission allow the Department to manage wildlife. No one wanted to consider leaving access as it currently exists. The YVRGC was adamantly opposed to any additional wilderness in Arizona. He referenced the Cabeza Prieta wilderness area. The comprehensive conservation plan was still in draft form and has caused wildlife to suffer, i.e., Sonoran pronghorn. The U.S. Border Patrol was opposed to this Tucson sector as it would impact their accessibility and mobility to do their job.

Stephanie Nichols-Young, representing the Animal Defense League of Arizona, asked the Commission to keep an open mind to this proposal until it saw all of the details. There was a lot of community support for this proposal. It was important to have roadless areas for larger wildlife species. The Commission should listen to science and not be caught up in rhetoric.

Chairman Carter asked the Commission to consider giving the Department direction to work with the proponents of the projects, specifically Congressman Kolbe's staff, to see if

a consensus could be reached on the public access issues and provisions. Language has been previously added to legislation that makes it more difficult for federal agencies to make modifications without having to go back to Congress.

Motion: Chilton moved and Melton seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO PREPARE A LETTER OUTLINING THE TIME AND RESOURCE COMMITMENTS THAT HAVE BEEN REQUIRED TO PRESERVE OUR OPPORTUNITY TO MANAGE WILDLIFE AND OUR ABILITY TO PROVIDE ACCESS FOR THE PUBLIC FOR RECREATIONAL USES ON FEDERALLY MANAGED LANDS AND PREPARE THE LETTER FOR THE CHAIRPERSON'S SIGNATURE.

Chairman Carter noted a letter had been sent to Congressman Kolbe outlining concerns regarding wildlife management as well as public access. Now that there were maps identifying the differences between the proposals, the Department may want to convey to the Congressman its concerns with public access primarily at this point. The letter should offer the Department would be willing to work with the Congressman's staff and remind him of the difficulties regarding wildlife management in wilderness areas.

A presentation by the Congressman's staff regarding this proposal would be scheduled for the March Commission meeting.

Vote: Unanimous

Commissioner Chilton stated this area was presently managed by the U.S. Forest Service (USFS). There was no timber operation in the area. The area would be closed to the Healthy Forests Initiative because any burning that would enhance grasslands and prevent invasive species would become more problematic. The present protective level of the USFS achieves all the goals the wilderness advocates are pursuing.

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4. Request for the Commission to Approve an Intergovernmental Agreement Between the Commission and the Arizona State Parks Board for the Purpose of Future Management of the Coal Mine Spring Property in Santa Cruz County

Presenter: Bob Broschied, Acting Habitat Branch Chief

As approved by the Commission, the Department is working cooperatively with the U.S. Fish and Wildlife Service (FWS), the Trust for Public Lands (TPL), and the Arizona State Parks Board (Board) to acquire the Coal Mine Spring property (property) and develop the Property Management Plan. Consistent with the FWS ESA Section 6 Recovery Land Acquisition Grant, the Commission will purchase the property from the TPL and work cooperatively with the Board to manage the property as part of the Sonoita Creek State Natural Area. This Intergovernmental Agreement between the Commission and the Board formalizes a partnership for the future management of the property.

Commissioner Gilstrap recused from voting due to a conflict of interest since he was a member of the TPL.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION VOTE TO APPROVE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COMMISSION AND THE ARIZONA STATE PARKS BOARD FOR THE PURPOSE OF FUTURE MANAGEMENT OF THE COAL MINE SPRING PROPERTY AND EXECUTE THE AGREEMENT AS ATTACHED OR AS RECOMMENDED OR APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL.

Vote: Chilton and Melton – Aye
Gilstrap – Recused
Golightly – Absent for vote
Chair voted Aye
Motion passed 3 to 2

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Meeting recessed at 10:30 a.m.

Meeting reconvened at 10:43 a.m.

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5. Statewide Shooting Range Project Update

Presenter: Kerry Baldwin, Education Branch Chief

A written summary was provided to the Commission on major issues in the program prior to today's meeting.

Commissioner Golightly asked if the plaintiffs appealed to the 9th District Court for a stay on Bellemont. Mr. Baldwin stated that, according to Jay Adkins, they had not formally filed the appeal. The lawyers met to discuss potential resolution to the appeal prior to going into the formal process. Commissioner Golightly asked that the Commission be kept updated on Bellemont issues as they occur. The Department was proceeding with the bid process; in case there was no stay, construction could begin in the spring.

Commissioner Melton was concerned about the Tucson Shooting Range Coalition and Pima County. He asked if the Department would be dealing with any issues. Mr. Baldwin assured the Commission its position on the Sabino Canyon Range was fairly firm. The Coalition was looking at other options, namely, the private range for sale on Valencia Road. Chuck Huckelberry, Administrator for Pima County, has agreed to do an appraisal of the property. Under the bond process, the County would include additional funding that could be used for shooting ranges.

Mr. Baldwin noted Chairman Carter requested a comprehensive list of shooting ranges and potential shooting range sites for the Commission. Many potential shooting range sites will be on federal lands. The federal land agencies have not been willing to identify lands. Mr. Baldwin noted he would be meeting this afternoon with the U.S. Forest Service and Bureau of Land Management representatives as part of the second phase of strategic planning for ranges in Pima County. Timelines and involvement in the public process should be determined today.

Commissioner Melton asked about the archery range in the Yuma area that was closed due to lead poisoning. It was difficult for the clubs to get any resolution on the archery

range about removing the lead to allow the range to be reopened. Mr. Baldwin stated he would look into ways the Department could assist in getting resolution for the range. Lead in the ground in Arizona is not a dangerous item for individuals. Because of soil chemical compositions in the ground, lead does not break down and dissolve into the water table.

The implementation plan for the Scholastic Clay Target Program was provided to the Commission. Mr. Baldwin pointed out the Department's approach to the objectives of this program in that they need to fit in with the current programmatic direction of the agency. They have to fit into the elements the Commission has authority on related to hunting, safe gun handling and hunter education.

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6. Consent Agenda

- a. Request for Commission Approval to Enter into an Agreement with the U.S. Fish and Wildlife Service to Aid in Conducting Research into the Population Level Genetic Differentiation among and between Geographically Isolated Stocks of Gila Chub, Headwater Chub, and Roundtail Chub in the Gila River Basin. Department recommendation: The Commission vote to approve the Department to enter into an agreement with the U.S. Fish and Wildlife Service to work with Dr. Tom Dowling at Arizona State University to conduct research related to several aspects of chub genetics.
- b. Addition of Rio Vista Lake to the Urban Fishing Program and Approval of the Interagency Agreement between the Arizona Game and Fish Commission and the City of Peoria. Department recommendation: The Commission vote to approve the addition of the 2.7 acre Rio Vista Lake in the City of Peoria to the Urban Fishing Program effective March 1, 2004, and to authorize the Director to execute an Interagency Agreement between the Game and Fish Commission and the City of Peoria, and to approve associated changes to Commission Order 40.
- c. Intergovernmental Agreement between the City of Safford, the Coronado National Forest and the Department. Department recommendation: The Commission vote to approve the IGA between the Department, the City of Peoria, and the United States Forest Service.
- d. Memorandum of Understanding (MOU) Between Lake Havasu City and the Arizona Game and Fish Department. Department recommendation: The Commission vote to approve the MOU between the Department and Lake Havasu City.
- e. Memorandum of Understanding between the National Park Service-Glen Canyon National Recreational Area and the Arizona Game and Fish Department. Department recommendation: The Commission vote to approve the MOU between the Department and the National Park Service-Glen Canyon National Recreational Area.

- f. Request to Enter into a Memorandum of Understanding with the Fort McDowell Yavapai Nation. Department recommendation: The Commission vote to authorize the Director of the Arizona Game and Fish Department, as Secretary to the Commission, to enter into, amend, and extend as necessary, a Memorandum of Understanding with the Fort McDowell Yavapai Nation, as proposed by the Department.
- g. Request to Enter into a Memorandum of Understanding with the Salt River Pima-Maricopa Indian Community. Department recommendation: The Commission vote to authorize the Director of the Arizona Game and Fish Department, as Secretary to the Commission, to enter into, amend, and extend as necessary a Memorandum of Understanding with the Salt River Pima-Maricopa Indian Community, as proposed by the Department.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION APPROVE THE CONSENT AGENDA ITEMS A. THROUGH G.

Vote: Unanimous

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7. Petition by Mr. John Reed to Amend R12-4-413, Private Game Farm License, for Rearing of Restricted Live Wildlife

This item was deleted.

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8. Commission Decision on Approving an Intergovernmental Agreement with the City of Tucson for the Purpose of Developing a Habitat Conservation Plan for the City's Water Holdings within the Avra Valley, its Lands within the Santa Cruz River Corridor, and Undeveloped Lands in the Southeastern Portion of the City of Tucson

Presenter: Terry B. Johnson, Nongame Branch Chief

The Department received an Assistance Grant from the U.S. Fish and Wildlife Service (FWS) for \$327,990 in federal funds to assist in developing a Habitat Conservation Plan (HCP) for various wildlife and wildlife-related resources. The grant provides support from the FWS's Endangered Species Act (ESA) Section 6 Cooperative Endangered Species Conservation Fund.

An Intergovernmental Agreement between the Commission and the City of Tucson has been drafted to provide a mechanism for passing the funds secured in the grant through to the City of Tucson. The Intergovernmental Agreement formalizes a partnership to develop a HCP for the Tucson water holdings within the Avra Valley, lands within the Santa Cruz River corridor, and the undeveloped lands of the southeastern portion of the City of Tucson.

In accordance with the draft Intergovernmental Agreement, the City of Tucson would:

1. Undertake the HCP process for the area described in the proposal and the agreement

2. Provide to the Department invoices for reimbursement of expenses incurred in the planning process
3. Provide \$173,270 cash and in-kind services to the planning effort (as a match for federal funds received)
4. Report quarterly on the progress made
5. Provide a final report describing completion of the planning project

Under the Agreement, the Department would:

1. Provide advice and technical assistance to the planning effort
2. Participate in technical and stakeholder advisory groups
3. Reimburse the City of expenses incurred to develop the draft HCP, up to the sum of \$303,000 (for products received)

The difference in funding between \$303,000 and \$327,990 would sustain and provide funding for a Department employee assigned to assist the City of Tucson in this endeavor.

This grant comes from Section 6 non-traditional funding grants. It's in the area of recovery land acquisition and habitat conservation planning. Congress specifically structured this to convey grants through state agencies to local partners in conservation planning processes. It brought an unfunded mandate that the Department must participate in this and fund employee participation.

The City of Tucson's purpose for pursuing the grant is to ensure it is a conservation planning complements the Sonoran Desert Conservation Plan.

Commissioner Chilton asked how Safe Harbor Agreements may affect the HCP process. Mr. Johnson stated the FWS's position on the Safe Harbor decision out of the court is that the procedural issues raised by the court can and will be addressed by the FWS and will not affect the use of Safe Harbor. Safe Harbor policies still operate; all HCP development with the FWS will continue to address Safe Harbor issues to the extent that the applicant wishes. Commissioner Chilton hoped this decision would be upheld in the courts. She would abstain on voting on this issue due to reasons of doubt on the outcome.

Motion: Melton moved and Gilstrap seconded THAT THE COMMISSION VOTE TO APPROVE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF TUCSON FOR THE PURPOSE OF DEVELOPING A HABITAT CONSERVATION PLAN FOR THE CITY OF TUCSON WATER HOLDINGS WITHIN THE AVRA VALLEY, CITY OF TUCSON LANDS WITHIN THE SANTA CRUZ RIVER CORRIDOR, AND UNDEVELOPED LANDS IN THE SOUTHEASTERN PORTION OF THE CITY OF TUCSON. THE DEPARTMENT SHOULD BE ALLOWED TO REVISE AND MODIFY THE AGREEMENT BASED ON GUIDANCE FROM THE ATTORNEY GENERAL'S OFFICE.

Vote: Gilstrap, Melton, Golightly – Aye
Chilton – Abstained
Chair voted Aye
Motion passed

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9. Rangewide Conservation Agreement for the Roundtail Chub, Bluehead Sucker and Flannelmouth Sucker

Presenter: Terry B. Johnson, Nongame Branch Chief

The roundtail chub, bluehead sucker and flannelmouth sucker are native fishes with relatively broad historical occurrence. These three fishes mainly occur in the Colorado River drainage. Members of the Western Association of Fish and Wildlife Agencies (WAFWA) and various federal agencies are concerned these species are sufficiently imperiled that conservation action should be focused to ensure continued presence and to preclude the need for federal listing.

State representatives have been discussing possible cooperative approaches that would meet the identified general conservation needs rangewide and facilitate development and implementation of more specific conservation programs within each affected state.

A briefing on these species was given consisting of their status, a draft State Conservation Agreement, and the outcome of a discussion among WAFWA directors on January 4, 2004, regarding the merits of this collaborative multi-state approach.

Mr. Johnson pointed out there was concern in Arizona for the roundtail, which is a sportfish in Arizona. It was agreed by the state agencies cooperative management of these fish in a significant portion of their range was needed for long-term protection.

Under this multi-state agreement, each state is to develop a specific management or conservation plan. The primary purpose to enter into the agreement is to share resources and information.

Motion: Melton moved and Chilton seconded THAT THE COMMISSION VOTE TO AUTHORIZE THE DIRECTOR TO ENTER INTO A CONSERVATION AGREEMENT FOR THE ROUNDTAIL CHUB, BLUEHEAD SUCKER, AND FLANNELMOUTH SUCKER TO FURTHER STATE CONSERVATION OF THESE SPECIES AND PRECLUDE THE NEED FOR FEDERAL LISTING AS THREATENED OR ENDANGERED. THE DIRECTOR SHOULD BE ALLOWED TO AMEND THE AGREEMENT AS NECESSARY TO ENSURE COMPATIBILITY WITH ALL STATES.

Mr. Johnson reaffirmed state specific actions to proceed in further detail would be brought back to the Commission in a separate agreement.

Vote: Unanimous

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10. Request to Close the Rulemaking Record and to Approve the Notice of Final Rulemaking to Amend R12-4-102, Fees for Licenses, Tags, Stamps and Permits and the Economic, Small Business and Consumer Impact Statement to Adopt the Kaibab North Special Deer Hunting Permit Fee Increase

Presenter: Mark E. Naugle, Rules and Risk Manager

For additional information, see Commission meeting minutes for September 5, 2003, page 22.

The anticipated effective date for the rulemaking is May 1, 2004.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION VOTE TO CLOSE THE RULEMAKING RECORD AND TO APPROVE THE NOTICE OF FINAL RULEMAKING TO AMEND R12-4-102, FEES FOR LICENSES, TAGS, STAMPS, AND PERMITS TO ADOPT THE KAIBAB NORTH SPECIAL DEER HUNTING PERMIT FEE INCREASE AND TO FILE THE NOTICE WITH THE GOVERNOR'S REGULATORY REVIEW COUNCIL. THE FEE INCREASE IS PROVIDED FOR IN A 2001 SIKES ACT AGREEMENT BETWEEN THE ARIZONA GAME AND FISH COMMISSION AND THE UNITED STATES DEPARTMENT OF AGRICULTURE FOREST SERVICE, KAIBAB NATIONAL FOREST. THE AUTHORIZED FEE INCREASE IS FROM \$5 TO \$15.

Vote: Unanimous

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11. Request to Amend Commission Order 26: Population Management Seasons

Presenter: Vashti C. Supplee, Game Branch Chief

For additional information, see Commission meeting minutes for April 12, 2003, page 19.

The Commission authorized up to 16 bull, antlerless, or any elk archery-only population management hunt permits in Units 6A, 19A, and 21 at the April 2003 Commission meeting. The Department issued five of these permits to address private land agricultural concerns; however, this hunt did not accomplish our management objectives to address elk depredation concerns in Camp Verde and the surrounding areas. General season population management hunt permits seem to be the best option at this time to address management objectives within and adjacent to these private land agricultural areas. This option, however, requires a Commission vote to amend Commission Order 26 and to authorize a general population management season within these units.

The Commission also authorized up to 75 bull, antlerless, or any and 20 bull general population management hunt permits for use in Units 17A, 17B, 19B and 20A. To date, the Department has issued three bull, 20 antlerless and eight any permits to address management objectives in Unit 19B. A relatively small resident herd of depredating elk has been documented in the vicinity of Kirkland and Skull Valley, where Units 17B, 20A and 20C meet. The Department has received elk-related complaints from private landowners in the area. The aforementioned units are managed collectively, and adding Unit 20C to the units where a population management hunt may be held will help the Department achieve management goals. This action also requires the Commission to vote to amend the Order to increase the number of permits, alter open dates, and include Unit 20C in the areas for which general permits for population management seasons are authorized.

Proposed season dates are:

<u>Season Dates</u>	<u>GMU</u>	<u>Legal Wildlife</u>	<u>Permits</u>
Jan. 25-Feb. 15, 2004	6A, 19A and 21	Bull, antlerless or any elk	100
Feb. 16-June 30, 2004	6A, 19A and 21	Bull elk	30
Jan. 25-Feb. 15, 2004	17A, 17B, 19B, 20A, 20C	Bull, antlerless or any elk	90
Feb. 16-June 30, 2004	17A, 17B, 19B, 20A, 20C	Bull elk	25

Motion: Chilton moved and Melton seconded THAT THE COMMISSION VOTE TO AMEND COMMISSION ORDER 26-POPULATION MANAGEMENT HUNTS, AS PRESENTED.

Vote: Unanimous

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12. Call to the Public

Steve Chevront, representing the Arizona Deer Association, expressed concern regarding the lack of maps showing where the waters were in the state. This has to be done before new catchments are constructed. One-half of the water drinkers in the state need repair. Director Shroufe noted a large part of the problem would be addressed in a proposal under Prop 202.

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16. Future Expenditure of Funds from the Arizona Wildlife Conservation Fund

Presenter: Steve K. Ferrell, Deputy Director

A presentation was given regarding the Department's planned fiscal year 2004 Arizona Wildlife Conservation Fund expenditures. The Commission was asked to authorize the Department to spend these monies beyond June 30, 2004. The Department received its first two deposits to the fund in July and October 2003; the total received thus far is \$858,455. Revenue projections for FY 04 are estimated to be \$3.1 million. The FY 05 budget proposal will be presented to the Commission in June 2004, with FY 05 revenue projected to be \$5.2 million.

The Commission was also asked to provide the Department with direction on the use of these funds for grants. If the Commission so chooses, it was also asked to provide rulemaking timelines for the grants process. In December, the Commission discussed a substantive policy statement regarding eligibility of funds for shooting sports programs. A draft substantive policy statement was faxed to the Commission earlier in the week.

The proposed budget was similar to the one shared with the Commission in September 2003. Additions included a shooting sports proposal and a communications plan.

Program summary of the \$2.9 million by line item was included

Projects and proposed budget amounts:

Water Development Infrastructure Redevelopment

All Other Operating	\$ 200,000
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Contracted Water Development Maintenance and Redevelopment

All Other Operating	\$ 100,000
Professional Outside Services	<u>200,000</u>
Total	\$ 300,000

Mr. Ferrell noted \$500,000 was proposed for catchment refurbishment.

Commissioner Melton thought there should be a position in Region IV (Yuma) to be act as a facilitator for water projects. There were many projects in the region. He wanted to know how the Department would staff a position to write grants and coordinate with federal agencies to insure these projects are done in a timely fashion. Mr. Ferrell wanted to explore this with the Development Branch to see if they have the capacity within their staff to already absorb that now. Water redevelopments were within the scope of this proposal. If the Department felt staffing was inadequate, the monies to contract services might be available to help staff a position in Yuma. There was also a volunteer coordinator position in this proposal who might also work in this endeavor. Another option would be to commit another portion of this budget to another limited appointment FTE. Commissioner Melton asked the Department to investigate into this issue and return to the Commission with a report. There were also habitat enhancement projects other than for water, and having a coordinator to do on-the-ground work would be beneficial.

Commissioner Golightly suggested looking at this issue on an overall global perspective and not just by region. Water catchments in Unit 9 were in critical condition. Mr. Ferrell thought this would involve a short-term infusion of large sums of money to get the Department caught up. Hopefully, once the capital improvements for water developments statewide were operating at 100%, large amounts of money would not be needed to keep them above the curve.

Wildlife Water Development Database

Professional Outside Services	\$ 162,000
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Acquisition of Perpetual Easements

All Other Operating	\$ 100,000
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This would be amended to include U.S. Fish and Wildlife Service lands. The proposal already included State Trust lands, Bureau of Land Management and U.S. Forest Service.

Road Maintenance

Personal Services	\$ 43,000
Employer Related Expenses	12,000
Travel State	9,000
All Other Operating	10,000
Mileage	<u>3,500</u>
Total	\$ 77,500

The Department would first explore cooperative programs with the counties. Mr. Ferrell noted these funds would be used to maintain access on private lands and would be for landowners enrolled in the Department's access program.

Sipe Wildlife Area Bunkhouse Replacement

Professional Outside Services	\$ 10,000
Capital Outlay/Equipment	<u>160,000</u>
Total	\$ 170,000

Expenditures of Prop 202 funds would be scrutinized by the Legislature. The bunkhouse would be for use by Department employees. Chairman Carter stressed it was important to document cost savings associated with Department operations.

Accounts Payable Technician

Personal Services	\$ 27,287
Employer Related Expenses	8,156
Travel State	100
All Other Operating	<u>21,000</u>
Total	\$ 56,443

Buyer

Personal Services	\$ 42,000
Employer Related Expenses	12,600
Travel State	200
All Other Operating	<u>3,000</u>
Total	\$ 57,800

Wildlife Area O&M

Personal Services	\$ 320,000
Employer Related Expenses	123,000
Travel State	36,000
Mileage	<u>15,000</u>
Total	\$ 506,000

Overtime for Investigators

All Other Operating	\$ 40,000
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Regional GIS Workstations

All Other Operating	\$ 80,000
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Radio Systems Upgrade

All Other Operating	\$ 2,900
Capital Outlay/Equipment	<u>80,000</u>
Total	\$ 82,000

Region I Contracted Tree Thinning

All Other Operating	\$ 5,000
Professional Outside Services	<u>70,000</u>
Total	\$ 75,000

Game Branch Software

Professional Outside Services	\$ 125,000
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Big Game Survey Restoration

Professional Outside Services	\$ 55,680
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Predator Management

All Other Operating	\$ 50,000
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Farm Bill Coordinator

Personal Services	\$ 22,500
Employer Related Expenses	6,500
Travel State	3,750
All Other Operating	8,700
Capital Outlay/Equipment	10,000
Mileage	<u>3,000</u>
Total	\$ 54,450

Contracted Programmatic NEPA Coordination

Professional Outside Services	\$ 100,000
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Wildlife Disease Monitoring

All Other Operating	\$ 45,000
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Watchable Wildlife Enhancements

All Other Operating	\$ 36,500
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Shooting Range Program Support

Personal Services	\$ 23,100
Employer Related Expenses	4,700
Travel State	3,100
All Other Operating	135,960
Professional Outside Services	21,200
Mileage	<u>2,700</u>
Total	\$ 190,760

Communications Improvements

All Other Operating	\$ 20,000
Professional Outside Services	<u>80,000</u>
Total	\$ 100,000

Match for Federal Grants Program

Cost Transfer	\$ 150,000
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Volunteer Coordinator

Personal Services	\$ 35,000
Employer Related Expenses	7,000
Travel State	1,500
All Other Operating	14,000
Mileage	<u>2,500</u>
Total	\$ 60,000

Budget Support

Personal Services	\$ 19,300
Employer Related Expenses	<u>6,700</u>
Total	\$ 26,050

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Meeting recessed at 12:30 p.m.

Meeting reconvened at 1:10 p.m.

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Chairman Carter suggested the following:

Motion: THAT THE COMMISSION VOTE TO ADOPT THIS BUDGET OF \$2.9 MILLION FOR '04 WITH SOME GUIDELINES: 1) TO ENSURE THESE RESOURCES ARE USED FOR STATEWIDE WILDLIFE MANAGEMENT AND CONSERVATION PURPOSES; 2) THE DEPARTMENT AGGRESSIVELY WORK WITH OTHER PARTIES TO IMPLEMENT SPECIFIC PROJECTS WHERE POSSIBLE, I.E., LOCAL GOVERNMENTS ON ROADS, USING THESE MONIES TO SECURE OTHER FUNDS; 3) TO MAKE CLEAR THAT THE POSITIONS BEING CREATED ARE LIMITED POSITIONS AND STAND ALONE IN THIS BUDGET ONLY AND IT WOULD COME BACK TO THE COMMISSION IN A NEW BUDGET AS TO WHETHER OR NOT THOSE WOULD CONTINUE; 4) THE DEPARTMENT COME BACK IN SIX MONTHS WITH A STATUS REPORT AS TO HOW THESE FUNDS HAVE BEEN USED AND WHAT PORTIONS OF THOSE PROJECTS THAT HAVE BEEN IDENTIFIED HAVE BEEN COMPLETED.

The above was moved by Gilstrap and seconded by Melton.

Vote: Unanimous

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19. Director's and Chairman's Reports

Chairman Carter was involved in issues related to Frye Mesa and wolf management. He noted the following governmental and tribal entities signed the MOU: the White Mountain Apache Tribe, Navajo and Greenlee Counties; it is on the agenda for Graham County and it is hoped Apache and Gila Counties will move in that direction.

Director Shroufe attended the Western Association of Fish and Wildlife Agencies (WAFWA) mid-winter meeting in San Diego. He worked on issues related to Frye Mesa, Alamo burros, and the Ben Avery Shooting Facility Right-of-Way with the City of Phoenix.

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20. Commissioners' Reports

Commissioner Melton met with Betty Mason who has a house and 20 acres adjacent to Quigley Wildlife Area. She wanted to donate those to the Department after her death. He assisted in removing coyotes on the Cabeza Prieta as part of the Sonoran pronghorn reintroduction.

Commissioner Gilstrap toured New Mexico ranches (Amedaris and Ladder) and looked at private lands and ranchers' abilities to manage wildlife.

Commissioner Chilton worked on the Altar Valley Habitat Conservation Alliance and the Unit 36B wilderness area proposal and to ensure access was not impaired in the process.

Commissioner Golightly attended the Yuma Valley Rod and Gun Club annual banquet and the WAFWA meeting in San Diego.

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21. Approval of Minutes

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION APPROVE THE MINUTES FOR DECEMBER 4, 2003.

Vote: Unanimous

The minutes for October 9, 2003 and October 17-18, 2003, were signed.

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13. Hearings on License Revocations for Violations of Game and Fish Codes and Civil Assessments for the Illegal Taking and/or Possession or Wildlife

Presenter: Leonard Ordway, Law Enforcement Branch Chief

Record of these proceedings is maintained in a separate minutes book in the Director's Office.

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14. State and Federal Legislation

This item, renumbered as 2.1, was presented earlier.

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15. Resolution to Compliment the President of the United States on his Healthy Forests Initiative as it Relates to Wildlife Habitat

This item, renumbered as 2.2, was presented earlier.

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16. Future Expenditure of Funds from the Arizona Wildlife Conservation Fund – cont'd.

The Commission needed to provide direction on grants and whether or not the Commission wished to offer grants as allowed by statute. At the September meeting, the Commission expressed interest in having grants. The Department recommended the Commission establish a granting process similar to the one for the Heritage Fund.

The Department formed a team to investigate the issue. Mr. Ferrell noted it was ill-advised to roll this granting process in with Heritage. There have been some changes in Title 41 that provide guidance on how the grants programs would run. The Heritage grants process is not governed by the new statute, whereas this one would be.

Other options the Commission could consider are: 1) Article 7 in the Commission's rules could be split into two sections; one that addresses this grants program and the other would address the Heritage Grants or 2) a new article (9) could be established in the rules that would address only this grants program. The team recommended the latter option.

There were three timelines offered if the Commission decided to write rules that would establish a grants program. The super fast track cycle could be done but it would be difficult to accomplish and would make the public process almost non-existent. The two recommended cycles were fast track and regular. The projected implementation date for the former is December 2004; for the latter, it is April 2005.

The team recommended a year-long process with deadlines throughout the year. There would not be just a one-time cycle when grants were announced. Grant applications may be accepted quarterly.

Motion: Gilstrap moved and Golightly seconded THAT THE DEPARTMENT IMPLEMENT THE GRANTS PROCESS AND IT BE DONE ON THE REGULAR CYCLE TIME.

Commissioner Melton preferred the fast track because of working on projects in the desert during hot months. Commissioner Gilstrap stated this was a one-time thing that involved a new rulemaking process. Commissioner Melton withdrew his objection.

Vote: Unanimous

Mr. Ferrell stated the draft Substantive Policy Statement addressed the eligibility of Prop 202 funds for shooting sports. This draft was for Commission consideration only.

Motion: Gilstrap moved and Golightly seconded THAT THE COMMISSION DIRECT THE DEPARTMENT TO GO TO THE PUBLIC WITH THIS MESSAGE AND FOLLOW PROCEDURES TO UTILIZE THIS LANGUAGE AT THE NEXT TWO MEETINGS.

Vote: Unanimous

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Meeting recessed at 1:58 p.m.

Meeting reconvened at 2:08 p.m.

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16. Future Expenditure of Funds from the Arizona Wildlife Conservation Fund – cont'd.

Chairman Carter noted it should be communicated to the coalition that assembled the Prop 202 initiative the Commission's desire to develop a substantive policy that would include how the funds would be used with respect to shooting ranges. It would be appropriate for the Department to write a letter conveying the Commission's intent to get feedback from members of the coalition before proceeding with the public process on the substantive policy statement. This feedback would be provided to the Commission.

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17. Director's Goals and Objectives - 2004

Presenter: Duane L. Shroufe, Director

The Director and Commission discussed goals and objectives for the Director to achieve during 2004.

Goal 1 dealt with public access. There were three areas that were ongoing; Director Shroufe felt they should remain as part of the goal. A lot of work has been done with access.

Goal 2 would continue for 2004.

Goal 3 – Director Shroufe had a suggestion for the Ben Avery Land Development Plan. There should be two different options. He did not feel the total development of the Department's headquarters facility would meet timelines. He suggested the following options: 1) to explore options for the headquarters and 2) continue with the economic development plan. Chairman Carter suggested putting in larger, bolder letters as a goal, "to explore options for a location of a headquarters." Commissioner Chilton wanted to see the heading changed to something like, "Continue pursuing ways to preserve, enhance and protect the Ben Avery Range." This would be the heading with the things leading to that goal listed below it.

Chairman Carter noted options for location would be a separate goal under Ben Avery.

Goal 4 would be deleted from the list for 2004. It was not advisable to pursue it at the present time.

Goal 5 would continue for 2004. Commissioner Chilton stated enhancing the image was the outcome of doing good work. "Enhance Statewide Image" would be deleted with capitalization of the other areas. Good work produces a good image was the intent of the goal and not painting a good image with the hope that the work will follow.

Goal 6 would continue for 2006.

Goal 7 (Legislative Day) would be deleted from the list for 2004.

Goal 8 (Ensure revenue streams and find new sources) would be retained for 2004.

Goal 9 (Establish programs to improve water resource needs on the Arizona Strip) would be changed to statewide. Commissioner Chilton suggested "Establish Programs to Improve Water Resources Statewide."

New goals for 2004 were discussed.

Commissioner Gilstrap wanted to implement a system for monitoring programs and finances of the Wildlife Conservation Fund.

1) Continue to gather information on species already listed, for which the Commission opposed listing because they did not require immediate protection and 2) to raise fish species amenable to being raised in cooperation with private landowners and in cooperation with the U.S. Fish and Wildlife Service (FWS) in order to get the fish off the protected listings. We will coordinate with the FWS to work toward a constructed interpretation of the present Endangered Species Act to make it more of a Species Conservation Act where incentives and opportunities dominate instead of threats and punishments and where people and wildlife agencies are motivated to take constructive action to either get the species back to healthy populations or to find and verify they were listed without proper information in the first place. If the species was listed without due study first and it was subsequently found that the species was more prevalent, the species should be taken off the list. If the species was genuinely in trouble, steps should be taken to help get it off the list.

Commissioner Golightly wondered if this could be an ongoing agenda item rather than a goal and objective. The product trying to be achieved is actually in the hands of federal agencies and not something the Director can accomplish. Chairman Carter thought there were two areas where the Department and Commission could be proactive on two fronts. 1) to gather necessary scientific data to prevent listings and 2) to gather the same data to identify that the listing was inappropriate. This could happen within the state, as well as beyond the state boundaries, and working more cooperatively with states throughout the species' historic range. Perhaps this should be a goal.

Chairman Carter asked for consideration of one other goal, i.e., wildlife management and wildlife recreation and to do whatever is possible to eliminate references to “harvest” vs. “viewing” vs. “game” vs. “nongame.” These create many of the problems and perceptions that the agency deals with. Director Shroufe noted plans are to combine them in the Department’s strategic plan into wildlife management and not have them as individual components.

Chairman Carter directed the Department to bring back a final draft of the 2004 goals for the Commission’s review.

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18. Call to the Public

There were no comments.

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23. Future Agenda Items

Mr. Ferrell reviewed the action items and items for future agendas.

1. Action item: Provide written definitions of classifications for potential Commission direction concerning the monitoring of current legislation
2. Future agenda item: Tumacacori Wilderness Area (March)
3. Action item: Draft a letter to the Arizona congressional delegation outlining the Commission’s concern with exiting wilderness areas and time and resources that the Department has expended in dealing with public access and wildlife management in designated wilderness areas. Reference should be placed on the new Tumacacori map. An offer should be made to work with the congressional staff and wilderness proponents to resolve concerns.
4. Action item: Provide the Commission with weekly briefings regarding the status of current litigation on the Bellemont Shooting Range.
5. Action item: Investigate factors causing the closure of a private shooting range in Yuma on the alleged ground of lead contamination. Report findings and likely future developments to the Commission.
6. Action item: Draft a letter for Chairman’s signature to the Coalition of Tribes asking their opinions on the Department’s intention to use Wildlife Conservation Fund (WCF) monies for shooting ranges and shooting sports.
7. Future agenda items: First and second readings of the substantive policy statement regarding the use of WCF monies for shooting sports (February and March)
8. Future agenda item: Provide Commission with a progress report on the expenditure of the FY 04 WCF (June) This will come to the Commission in an update on the Director’s goals and objectives.
9. Future agenda item: Begin regular “out-of-cycle” rulemaking on Article 9 for Wildlife Conservation Fund grants (February)
10. Action item: Clarify to hiring supervisors that all new positions approved as part of the FY 04 WCF budget are limited appointments subject to annual renewal.
11. Action item: Provide the Commission with written briefings regarding developments in the transplant effort of Sonoran pronghorn from Mexico to Arizona

Commissioner Melton stated at 5:00 p.m. on February 12, 2004, the Yuma Valley Rod and Gun Club would be dedicating the ramada at Mittry Lake. The Commission and Department staff were invited to attend.

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22. Election of Officers

Motion: Melton moved and Golightly seconded THAT THE CHAIRMAN BE SUE CHILTON AND THE VICE CHAIR BE HAYS GILSTRAP FOR 2004.

Vote: Unanimous

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1. Executive Session

Motion: Gilstrap moved and Chilton seconded THAT THE COMMISSION RECONVENE INTO EXECUTIVE SESSION.

Vote: Unanimous

Director Shroufe noted the change would become effective Monday morning (January 19, 2004). He presented Chairman Carter with a 5-year Department service pin with congratulations on behalf of the Department.

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Meeting recessed at 2:50 p.m.

Meeting reconvened at 3:12 p.m.

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Motion: Chilton moved and Gilstrap seconded THAT THE COMMISSION MEETING RECESS UNTIL 1:30 PM TOMORROW.

Vote: Unanimous

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Meeting recessed at 3:13 p.m.

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Saturday, January 17, 2004 – 1:30 p.m.

The Commission met with its constituents to discuss items of interest; this discussion was followed by a Commission awards banquet, which adjourned at approximately 9:00 p.m. No official action was taken at Saturday's scheduled functions. These events were held at the Sheraton Crescent Hotel, 2620 W. Dunlap Avenue, Phoenix.

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